

REMARKS

A. Regarding the Amendments

It was noted in Paper No. 21 that the Amendment After Final mailed on October 26, 2001 was not entered. Entry of the Amendment is now respectfully requested.

Claims 22 and 26 have been amended as set forth in the attached "Version With Markings To Show Changes Made." As amended, the claims are supported by the specification and the original claims. Additionally, as set forth above, claims 1, 5, 9-11, 15-17, 21, 25, 27-32, 42, 49, 74-77, 82-84, 88 and 89 have been cancelled without prejudice and new claims 90-92 have been added. Thus, upon entry of the amendments, claims 22, 26 and 90-92 will be pending.

B. Rejection Under 35 U.S.C. § 112

Applicants respectfully traverse the rejection of claims 27-32, 42, 74-77 and 82-84 under 35 U.S.C. § 112, first paragraph, for containing alleged lack of guidance and working examples for the production of a transgenic *Caenorhabditis* nematode. The Examiner's attention is respectfully drawn to the cancellation of claims 1, 5, 9-11, 15-17, 21, 25, 27-32, 42, 49, 74-77, 82-84, 88 and 89. As claims 27-32, 42, 74-77 and 82-84 are no longer pending, it is respectfully submitted that the rejection is moot. Withdrawal of the rejection is therefore respectfully requested.

Applicants respectfully traverse the rejection of claims 9-11 under 35 U.S.C. § 112, second paragraph as allegedly indefinite for failing to point out and distinctly claim the subject matter of the invention. In particular, it is alleged that the term "gene" is indefinite. Applicants respectfully disagree. As claims 9-11 were cancelled, as set forth above, it is respectfully submitted that the rejection is moot. Withdrawal of the rejection is therefore respectfully requested.

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C. Rejection Under 35 U.S.C. § 102

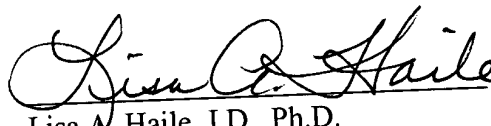
Applicants respectfully traverse rejection of claims 1, 5, 9-11 and 15-17 under 35 U.S.C. 102(b) as allegedly anticipated by Wilson, et al. It is respectfully submitted that claims 1, 5, 9-11 and 15-17 were cancelled above and therefore the anticipation rejection is respectfully submitted as moot. Withdrawal of the rejection is therefore respectfully requested.

CONCLUSION

In summary, for the reasons set forth herein, Applicants maintain that claims 22, 26 and 90-92 clearly and patentably define the invention, respectfully request that the Examiner reconsider the various grounds set forth in the Office Action, and respectfully request the allowance of the claims which are now pending.

If the Examiner would like to discuss any of the issues raised in the Office Action, Applicant's representative can be reached at (858) 677-1456. Enclosed is a check in the amount of \$1,450.00, which includes \$620.00 for the petition fee to revive an unintentionally abandoned application, \$460.00 for a three-month extension of time for reply to the Final Office Action, and \$370.00 for the filing of a Continued Prosecution Application. Please charge any additional fees, or make any credits, to Deposit Account No. 50-1355.

Respectfully submitted,



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Date: May 30, 2002

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

22. (Amended) The construct of claim [21] 90, wherein the reporter gene encodes a fluorescent protein.

26. (Amended) The plasmid of claim [25] 91 that is an expression vector.